

APPEAL NO. 100590  
FILED JULY 23, 2010

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 6, 2010. The sole disputed issue before the hearing officer was:

Does the compensable injury of \_\_\_\_\_, include: (1) post-traumatic stress disorder (PTSD);<sup>1</sup> (2) lumbar spine; (3) cervical disc pathology; (4) right thumb fracture; (5) right thumb degenerative joint disease; (6) derangement;<sup>2</sup> (7) left knee chondromalacia of the medial and lateral compartments; (8) left knee degenerative joint disease; (9) left knee medial meniscus tear; and (10) osteoarthritis patella of the left knee?

The hearing officer determined that the compensable injury of \_\_\_\_\_, includes: (1) right thumb fracture; (2) derangement; (3) left knee medial meniscus tear; and (4) osteoarthritis patella of the left knee. The hearing officer determined that the compensable injury of \_\_\_\_\_, does not include: (1) PTSD; (2) lumbar spine disc protrusion at L4-5 and an extrusion at L5-S1; (3) cervical disc pathology; (4) right thumb degenerative joint disease; (5) left knee chondromalacia of the medial and lateral compartments; and (6) left knee degenerative joint disease. Further, the hearing officer made findings of fact, but failed to make a conclusion of law or decision, that the compensable injury of \_\_\_\_\_, includes a cervical sprain and lumbar sprain. We note that in evidence are five Notice of Disputed Issue(s) and Refusal to Pay Benefits (PLN-11) dated December 10, 2007, January 3, 2008, April 9, 23, and 29, 2008, respectively, which state that respondent 1 (carrier) accepts that the compensable injury extends to a "neck strain."

The claimant appealed the hearing officer's determinations that were adverse to her. Additionally, the claimant states that the extent-of-injury issue with regard to the lumbar spine, is specifically phrased as only "lumbar spine" and that the hearing officer improperly "parcel[ed] out" that condition as to whether the lumbar spine injury was "a sprain strain or disc pathology." The carrier responded, urging affirmance. The appeal file does not contain a response from respondent 2 (subclaimant).

The hearing officer's determination that the claimant's compensable injury of \_\_\_\_\_, includes: right thumb fracture; derangement; left knee medial meniscus tear; and osteoarthritis patella of the left knee, and that the compensable injury does not include PTSD were not appealed and have become final pursuant to Section 410.169.

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<sup>1</sup> The parties stipulated that the appellant's (claimant) PTSD is not part of the compensable injury.

<sup>2</sup> Right thumb.

## DECISION

Affirmed in part and reversed and rendered in part.

That portion of the hearing officer's determination that the compensable injury of \_\_\_\_\_, does not include: (1) cervical disc pathology; (2) right thumb degenerative joint disease; (3) left knee chondromalacia of the medial and lateral compartments; and (4) left knee degenerative joint disease is supported by sufficient evidence and is affirmed.

In the Background Information section of the decision, the hearing officer states that the preponderance of the evidence supports the designated doctor's opinion that the claimant's lumbar herniations (lumbar spine disc protrusion at L4-5 and an extrusion at L5-S1) were pre-existing and not caused or aggravated by the work injury of \_\_\_\_\_. A review of the record shows that the specific lumbar conditions were actually litigated. That portion of the hearing officer's determination that the compensable injury of \_\_\_\_\_, does not include a lumbar spine disc protrusion at L4-5 and an extrusion at L5-S1 is supported by sufficient evidence and is affirmed.

Further, the hearing officer states in the Background Information section of the decision, that the evidence is persuasive and not conflicting that the lumbar sprain was caused by the compensable injury of \_\_\_\_\_. The hearing officer found that the compensable injury of \_\_\_\_\_, includes a lumbar sprain and that finding is supported by sufficient evidence. However, we note that the hearing officer failed to make a conclusion of law or a decision, that the compensable injury of \_\_\_\_\_, includes a lumbar sprain. Accordingly, we reverse that portion of the hearing officer's determination regarding the lumbar sprain as incomplete and we render a new decision that the compensable injury of \_\_\_\_\_, includes a lumbar sprain.

## SUMMARY

We affirm that portion of the hearing officer's determination that the compensable injury of \_\_\_\_\_, does not include: (1) lumbar spine disc protrusion at L4-5 and an extrusion at L5-S1; (2) cervical disc pathology; (3) right thumb degenerative joint disease; (4) left knee chondromalacia of the medial and lateral compartments; and (5) left knee degenerative joint disease.

We reverse that portion of the hearing officer's determination regarding the lumbar sprain as incomplete and we render a new decision that the compensable injury of \_\_\_\_\_, includes a lumbar sprain.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RON O. WRIGHT, PRESIDENT  
6210 EAST HIGHWAY 290  
AUSTIN, TEXAS 78723.**

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Veronica L. Ruberto  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Margaret L. Turner  
Appeals Judge